IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1229 OF 2006
IN
CRIMINAL APPEAL NO. 406 OF 1998

Pramod Akaram Shinde ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr. A.S. Khandeparkar i/by M/s. Khandeparkar and Associates for the applicant.
Mr. A.S. Gadkari, APP for State.

CORAM: B.H. MARLAPALLE & R.S. MOHITE,JJ.

Date : March 09, 2007.

P.C.:

1. Heard Mr. Khandeparkar the learned counsel for the applicant and Mr. Gadkari, the learned APP.

2. The applicant was tried in Sessions Case No. 86 of 1995 as well as Sessions Case No.87 of 1995. In the first case he was taken in custody on 26/8/1994 but in the second case he was taken in custody on 18/8/1994. In the second case he has been convicted

under Section 120-B read with Section 302 of IPC and sentenced to suffer life imprisonment as per the Judgment and Order dated 8/1/1998. Whereas in Sessions Case No.86 of 1995 he has been convicted for the offence punishable under Section 302 read with Section 34 of IPC and sentenced to suffer life imprisonment. In both the cases he has also been sentenced for some other offences. He has also been directed to pay fine for each conviction i.e. under Sections 302 and 364 of IPC in Sessions Case No.87/95 and under Sections 302 and 201 read with Section 34 of IPC in Sessions Case No.86/95.

3. This application is filed under an apprehension that the applicant may not be released by following the provisions of Section 427(2) of Cr.P.C. and the applicant has expressed strong apprehensions that the sentence of life imprisonment may not be treated as concurrent.

4. Affidavit in reply has been filed by the Under Secretary, Home Department (Prisons), Government of Maharashtra and it has been admitted that the

applicant was arrested for the first time on 18/8/1994 and, therefore, the same period of arrest till the order of conviction and sentence shall be given the benefit of set off under Section 428 of Cr.P.C. and by so counting the applicant has by now suffered actual sentence of about 13 years. The affidavit clearly states that the applicant has not yet undergone the sentence of 14 years so as to enable the competent authority to move the proposal to the State Government under the guide-lines for premature release as are applicable after 18th December, 1978 and as circulated vide the letter dated 11/5/1992. Mr. Gadkari, the learned APP states that within a period of about six months the applicant's proposal will be prepared and submitted to the State Government under the said guide-lines. He further assures that while calculating the sentence period, as awarded in Sessions Case Nos.86 and 87 of 1995, the provisions of Section 427(2) of Cr.P.C., as interpreted by this court as well as the Supreme Court will be followed. The Supreme Court in the case of Ranjit Singh vs. Union Territory of Chandigarh and anr. **[AIR 1991 SC 2296]** has amply clarified the position in this regard.

5. We are, therefore, satisfied that the application filed by the applicant is premature and in any case in view of the undertaking noted by us hereinabove, no further orders/directions are required to be issued.

6. Hence, this application is disposed off.

(R.S. Mohite, J.) **(B.H. Marlapalle,J.)**